

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK


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ASHLEY D. CARNEY,		:	
	Plaintiff,	:	
		:	18 Civ. 713 (LGS)
-against-		:	
		:	<u>ORDER</u>
BOSTON MARKET,		:	
	Defendant.	:	
-----X		:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on December 10, 2020, Plaintiff emailed a letter to Chambers regarding her inability to file Exhibit 2 to her response to Defendant's Local Rule 56.1 Statement at Dkt. No. 115 and attaching related emails and the exhibit. The exhibit is the full transcript of Plaintiff's June 3, 2020, deposition with an errata sheet. Plaintiff's letter and attachments, except not the voluminous exhibit, are appended hereto. It is hereby

ORDERED that the untimely submission of Exhibit 2 is excused, and it is deemed filed. Plaintiff is advised that all communications with the Court shall simultaneously be communicated with opposing counsel by the same means, regardless of the subject. Anything filed on the docket sheet by Plaintiff or on her behalf need not be sent to opposing counsel as filing on ECF is deemed good service. Plaintiff's application for ECF access is granted in a separate order.

Dated: December 11, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

December 10, 2020

Hon. Lorna G. Schofield
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Index No. 18-CV-00713 (LGS)

Ashley Danielle Carney (*Plaintiff*)
v.
Boston Market and “John Doe” (*Defendant*)

Re: Intervention regarding Summary Judgment Opposition Dkt. #115 – Missing Exhibit #2

Dear Judge Schofield:

I did not include the Defendant on this email due to this relating to a filing issue relating to an internal office at SDNY, but if you would like for them to be included even though they were serviced with Exhibit #2, I can certainly resend this email doing so.

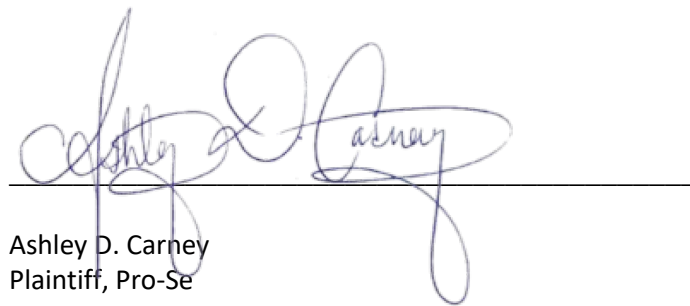
I wanted to contact your chambers to request intervention as it relates to my missing Exhibit #2 (of Docket #115) that I sent to the Pro-Se office (via the filing email address) on 12/7/20, in the same exact email as the other Exhibits that were timely filed. I'm not sure for the reasoning of this Exhibit missing from my Docket, but I followed up with the Pro-Se office from the time they filed Docket #115 as to their reasoning for not including my Exhibit #2. It seemed like an error or an oversight, but I was advised by their office after calling that the file did not open for them for some strange reasoning. The file attachment in the email opens perfectly from my end and also when forwarded to test out with others and was only 2.4 MB total (although it is 200 pages - it is only text so the file size was not large, my Exhibit #9 was larger in size than Exhibit #2), but the Pro-Se office asked me to re-send it anyway and I resent the same file that day (on 12/8/20). The following day, 12/9/20 (yesterday) when I saw that it still had not been filed, I called again and ended up speaking with Cecilia and she confirmed seeing the Exhibit in both emails but advised that they couldn't open up the Exhibit #2 attachment in the first email but she could open the attachment in the email where I re-sent it. She said she would file it under Docket #115 and received on 12/7/20 but insinuated she would get to it in 48 hrs. I escalated the issue as I asked the supervisor (Cecilia) of Pro-Se Intake to kindly expedite annexing the Exhibit #2 that is missing to Docket #115 sooner than 48 hrs since the Docket had now been created but she told me she would get to it within 48 hrs. Now it is past the 48 hr window and my Exhibit #2 is still outstanding/missing. I am baffled that my documents I have filed for my case have not been properly filed now past the 48 hr window when her team filed all the other files for my Summary Judgment within 24 hours from when I sent them. Especially since the Docket has been created and out there now for viewing to help avoid confusion, I asked if she could go ahead and take care of this since it is very clear that I sent the file to them on 12/7/20

with my other Exhibits. It has now been over 72 hours from when I originally sent the Pro-Se office Exhibit #2 and over 48 hours from when I re-sent the same file to them a 2nd time and the Exhibit STILL has not been annexed to my case. I am not pleased with what is going on and how I am feeling like I have to fight and call and email around in attempt to get my own exhibit annexed to my case.

To prevent any issue like this for any filings relating to my case for going forward, I have submitted my ECF Motion form to your chambers via filing with the Pro-Se office (sent 12/10/20 to Pro-Se Intake temp filing email – Docketed same day) so that I may upload my own papers. However, I would like my Exhibit #2 annexed to Docket #115 by the Pro-Se office as they are supposed to do. I sent the Pro-Se office with a clear and organized email to execute for my filings. I truly don't appreciate taking the effort to make sure things are done correctly from my end when filing, to having to deal with something like this where I am being forced to constantly follow-up, call, and send letters and emails to request intervention for something I shouldn't even need to be requesting intervention on if my filings were filed properly from the emails.

Below are my attached email communication to the Pro-Se office relating to Exhibit #2 for your reference, you can also see in the attachments the size (in kilobytes) of each Exhibit. I have also attached Exhibit #2 as sent to the Pro-Se office on 12/7/2020.

Thank you Judge Schofield for your time and attention,



Ashley D. Carney
Plaintiff, Pro-Se

Date: December 10, 2020

7283 Hwy. 42 W.
Ste. 102 #339
Raleigh, NC 27603
919-268-0614



Ashley Carney <ascarney13@gmail.com>

Summary Judgment Filing (2-Part Email)

Ashley Carney <ascarney13@gmail.com>

Mon, Dec 7, 2020 at 5:07 PM

To: Temporary_Pro_Se_Filing@nysd.uscourts.gov

1. Exhibit List
2. 12 Exhibits (Individually Attached) *I also have a combined version if that will work better. Contact me if you would prefer this, but from what I have seen it looks like all Exhibits are filed separately.

Ashley D. Carney
7283 Hwy. 42 W.
Ste. 102 #339
Raleigh, NC 27603

Thank you!

On Mon, Dec 7, 2020 at 5:04 PM Ashley Carney <ascarney13@gmail.com> wrote:

Hello,

This will be a 2-part email for 1 (one) filing due to the size of my Exhibit files. Exhibit files will follow separately in the next email. Thank you.

1. Plaintiff's Local 56.1 Response
2. Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment
3. Appendix - Case Law
4. Affidavit of Service

Ashley D. Carney
7283 Hwy. 42 W.
Ste. 102 #339
Raleigh, NC 27603

Thank you!

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† Psalms 103:2

"Bless the Lord, O my soul, and forget not all his benefits."

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† Psalms 103:2

"Bless the Lord, O my soul, and forget not all his benefits."

13 attachments**Exhibit List.pdf**

197K

**Plaintiff Exhibit 5 – Scale Comparison Baby Chicken vs. Adult Chicken 1 2 3.pdf**

1239K

**Plaintiff Exhibit 3 – Defendant's Response to Plaintiff's Request for Production of Documents.pdf**

1242K



Plaintiff Exhibit 2 – June 3 2020 Deposition Transcript of Plaintiff with Serviced Errata Sheet.pdf
2423K



Plaintiff Exhibit 4 – Photo Comparison to Actual Baby Chick 1 2 3.pdf
7808K



Plaintiff Exhibit 1 – Deposition Notice Emails.pdf
2003K



Plaintiff Exhibit 7 – Nictitating Membrane of Chicken 1 2.pdf
605K



Plaintiff Exhibit 6 – Outer Shape Comparison Chicken Specimen vs. Actual Baby Chick.pdf
2228K



Plaintiff Exhibit 8 – Close-Up Image of Chicken Eyes 1 2 3.pdf
1063K



Plaintiff Exhibit 10 – Closed Eyelids of Chicken while Resting Asleep 1 2.pdf
627K



Plaintiff Exhibit 9 – Bare Featherless Baby Chick.pdf
2555K



Plaintiff Exhibit 12 – Virginia Cooperative Extension Study.pdf
430K



Plaintiff Exhibit 11 – Deceased Chickens with Closed Eyes or Membrane Covered Eyes 1 2 3.pdf
1365K



Ashley Carney <ascarney13@gmail.com>

Summary Judgment Filing (2-Part Email)

Ashley Carney <ascarney13@gmail.com>

Tue, Dec 8, 2020 at 2:05 PM

To: Temporary_Pro_Se_Filing@nysd.uscourts.gov

Re-attaching per conversation with Mr. Arora

Thank you!

[Quoted text hidden]



Plaintiff Exhibit 2 – June 3 2020 Deposition Transcript of Plaintiff with Serviced Errata Sheet.pdf
2423K



Ashley Carney <ascarney13@gmail.com>

Summary Judgment Filing (2-Part Email)

Ashley Carney <ascarney13@gmail.com>

Tue, Dec 8, 2020 at 2:14 PM

To: Temporary_Pro_Se_Filing@nysd.uscourts.gov

Please timestamp Exhibit #2 from when originally sent on 12/7/20 and include in docket #115. Thank you.

[Quoted text hidden]